**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO. 24079 OF 1997**

Date: 13.02.2007

Between:

B. Koteswara Rao and six others.

... Petitioners

and

The Managing Director, APSRTC, Musheerabad, Hyderabad and two others.

... Respondents.

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO. 24079 OF 1997**

**ORDER:**

The petitioners seven in number, whose services were regularized as conductors with effect from 24.05.1989, seek regularization of their services with effect from the date of their initial appointment on 27.11.1986 when their services were engaged as daily wage conductors.

Sri V.R. Avula, learned Counsel for the petitioners, would place reliance on a Division Bench judgment of this Court in Writ Appeal No. 705 of 1995 dated 24.07.1995 wherein the Division Bench directed that continuous service shall be reckoned as defined under Section 25-B of the Industrial Disputes Act. Learned Counsel would submit that, since the petitioners underwent a regular process of selection, were selected as conductors and placed in the selection list, they ought to have been appointed as regular conductors and the action of the respondent corporation in appointing them on daily wage basis was arbitrary and illegal.

The respondent corporation, in its counter affidavit, specifically states that the services of the petitioners was regularized in a phased manner as per the circular instructions based upon sanctioned vacancies available from the date of arising of the vacancies. The respondent would rely on a Division Bench judgment of this Court in W.A. No. 410 of 1997 dated 10.02.1998 wherein this Court held that for regularizing the

services of employees if the persons seeking regularization are more in number regularization could be made in a phased manner.

Sri R. Manmadha Reddy, learned Standing Counsel for the A.P.S.R.T.C, would rely on the judgment of the Supreme Court in **Divisional Manager, A.P.S.R.T.C. Vs. P. Lakshmoji Rao**[1] and a Division Bench judgment of this Court in **Regional Manager A.P.S.R.T.C Vs. B. Ajay Kumar**[2]. In so far as the earlier judgment in W.A. No. 705 of 1995 dated 24.07.1995 is concerned, the services of the petitioner therein were required to be regularized on his completing 240 days of service. The judgment of the Division Bench in W.A. No. 705 of 1995 dated 24.07.1995 was disapproved by the Supreme Court in **P. Lakshmoji Rao**[1]. As held by the Supreme Court in **Madhyamik Siksha Parishad, U.P. Vs. Anil Kumar Mishra**[3] the mere fact that an employee has completed 240 days of service would not confer any right in any employee to claim regulatisation, and that it merely imposes certain obligations on the employer at the time of termination of the service. In **P. Lakshmoji Rao**[1], the Supreme Court, while holding that the respondent employees had failed to establish their legal right to get the status of regular employees right from the date of their initial appointment on daily wages and that the respective dates of regularization assigned to them could not be faulted, however, moulded the relief and directed` that if any conductor junior to the respondents before the Supreme Court had got the benefit of seniority and regularization or was entitled to get the same by virtue of judgments that had become final, then the

respondents who were seniors to them, should be given the same benefit on the same principle. Nothing is stated in the affidavit filed in support of the writ petition making any grievance that person junior to the petitioner had been given the said benefit. In **B. Ajay Kumar**[2] the Division Bench of this Court observed that since the services of the respondent conductors had already been regularized much prior to 31.07.1995 the agreed date, the respondents were not entitled for any relief as sought in view of the judgment of the Supreme Court in **P. Lakshmoji Rao**[1]. It is also necessary to note that the petitioners herein do not claim regularization under any scheme which provides for regularization. Nothing is stated as to the basis on which they claim to be entitled to have their services regularized from the date of their initial appointment and that their services which were regularized with effect from 24.05.1989 was not in accordance with law. As held by the Supreme Court in **Secretary, State of Karnataka Vs. Umadevi**[4], no right accrues in favour of employees engaged on daily wages or temporarily or on contractual basis, to claim regularization of their services as a matter of right. The necessary corollary thereto would be that they are not entitled to seek reglarisation from a date anterior to the actual date on which their services were regularised. On this ground alone the writ petition is liable to be dismissed. One other factor which is also required to be take note of is that, while the petitioners were initially appointed on 27.11.1986 and their services were regularized with effect from 24.05.1989, they have invoked the jurisdiction of this Court by way of the present writ petition only on

22.09.1997 nearly eleven years after the date of their initial appointment and more than eight years after regularization of their services. There is no explanation, much less a valid one, for the inordinate delay in invoking the jurisdiction of this Court. Having accepted employment as a conductors on daily wage basis, and having obtained the benefit of regularization with effect from 24.05.1989 and having kept silent for nearly eight years thereafter, it is not open to the petitioners herein to claim relief after an inordinate and unexplained delay of more than eight years and hence the relief sought for cannot be granted. However, in accordance with the judgment of the Supreme Court in **P. Lakshmoji Rao**[1], in case any conductors junior to the petitioner herein, in the relevant seniority list, have been given the benefit of seniority and regularization prior to the petitioners herein, it is open to the petitioners to submit a detailed representation in this regard to the 3rd respondent who shall examine their claims for being given regularization from an anterior date on par with their juniors whose services were regularised in accordance with the law laid down by the Supreme Court in **P. Lakshmoji Rao**[1].

Sri V.R. Avula, learned Counsel for the petitioner, would submit that the petitioners would make such a representation within four weeks from the date of receipt of a copy of the order. The third respondent shall consider the representation of the petitioner and pass appropriate orders thereupon in accordance with law within a period of three months from the date of receipt of their representation.

The writ petition is disposed of accordingly. No costs.

Date: 13.02.2007 RAMESH RANGANATHAN, J

MRKR

[1] 2004(2) SCC 433

[2] W.A. No.997 of 1999 dated 28.03.2006

[3] AIR 1994 SC 1638

[4] (2006(4) SCC 1